

MCHA91-68-2-10

AMENDMENTS TO THE DISCUSSION PAPER
ON THE TRANSITION

To be moved by MR. COLIN EGLIN MP

5.4 THE NEGOTIATION OF THE NEW CONSTITUTION

- 5.4.1 The DP believes that in order to provide an acceptable framework within which government can take place and at the same time achieve political stability, the new Constitution must be the product of negotiation by the representatives of all political groupings in South Africa.
- 5.4.2 Accordingly, a Constitutional Conference elected on the basis of universal franchise through a system of proportional representation should be established and charged with the task of drawing up the new Constitution.
- 5.4.3 This new constitution, having been drawn up by the Constitutional Conference, should be referred to the people of South Africa for approval and enactment by way of a referendum.
- 5.4.4 As a first step in this process a MPC/APC attended by representatives of all political parties and movements should be convened in order to reach agreement on the following matters:-
- 5.4.4.1 The principles on which the new Constitution should be based.
 - 5.4.4.2 The composition, functioning and powers of the body to be charged with drawing up the new Constitution. (The DP favours an elected Constitutional Conference.)
 - 5.4.4.3 The form and functioning of the governing authority during the process of transition from an apartheid South Africa to a new non-racial democracy. (The DP favours a multi-party Transitional Government of National Unity).
 - 5.4.4.4 The TBVC States - their participation in the negotiation and transition process and the principle of their re-unification with South Africa under a new Constitution.
 - 5.4.4.5 The drawing up and introduction of a Bill of Rights for the transitional period.
- 5.4.5 In relation to the Constitutional Conference the DP believes that:-
- 5.4.5.1 The Constitutional Conference will consist of approximately 200 members who will be elected on the basis of universal adult franchise, with each voter voting for a party of his or her choice, on a basis of proportional representation, with a cut off of 1%.
 - 5.4.5.2 The Constitutional Conference will sit only as long as it takes to negotiate a new constitution, or for two years, whichever is the shorter period, after which it will be dissolved. In the event of the constitution not having been finalised after two years, fresh elections for another Constitutional Conference will be held.

- 5.4.5.3 Having drawn up the Constitution for submission to the people by way of a referendum the Constitutional Conference would automatically dissolve.
- 5.4.5.4 The Constitutional Conference will be convened and chaired by the person or persons agreed to by the APC/MPC. Committees of the Conference may be established, and will be chaired by a member of the negotiation commission. The Conference will be empowered to determine its own procedures, including the right to hold all or any part of its sessions in committee, but will be bound to adhere to the constitutional principles established by the All-Party/Multi-Party Conference.
- 5.4.5.5 The Constitutional Conference will endeavour to take decisions on the basis of consensus, especially in respect of such matters as the entrenchment of the constitution, the Bill of Rights, the language issue and so on. Should it be unable to reach consensus it may take decisions with the positive vote of seventy per cent of the total number of its members, providing
- 5.4.5.5.1 The majority Party represented in the Constitutional Conference would have to agree; and
- 5.4.5.5.2 The majority Party in Parliament (which would also be represented in the Constitutional Conference) would have to agree.
- 5.4.5.6 Once the Constitutional Conference has approved a new constitution and each of the clauses thereof, it will, after endorsement by a referendum, become the new constitution of South Africa at the agreed date.